

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

RBG PLASTIC LLC d/b/a Restaurantware	)	
an Illinois company,	)	
	)	Civil Action No. 17-cv-6283
Plaintiff/Counter-Defendant,	)	Hon. Manish S. Shah
	)	
v.	)	
	)	
FIRST PACK LLC d/b/a Pack N Wood,	)	
a New York company	)	
	)	
Defendant/Counter-Plaintiff.	)	

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**PNW’S MOTION TO EXCLUDE OPINIONS OF RESTAURANTWARE’S EXPERT**

Defendant/Counter-Plaintiff First Pack LLC d/b/a Pack N Wood (“PNW”) moves to exclude certain opinions of RBG Plastic LLC d/b/a Restaurantware’s (“Restaurantware”) expert, Bill Hartzer under *Daubert v. Merrell Dow Pharms., Inc.*, 509 U.S. 579 (1993) and Fed. R. Evid. 702.<sup>1</sup> Specifically:

1. Mr. Hartzer’s opinions regarding the relationship between PNW and certain foreign websites, and the use of slogans on those websites (Opinions 2 and 3) should be excluded.
2. Mr. Hartzer’s opinions regarding whether websites are “printed material” within the context of the parties’ contract should be excluded.
3. Mr. Hartzer’s calculation of damages and lost revenues to Restaurantware (Opinion 6) should be excluded.

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<sup>1</sup> A briefing schedule on this motion has already been set, *see* Dkt. 36.

4. Mr. Hartzer's opinions regarding PNW's bidding on certain search terms and the purported benefits to PNW from those search terms (Opinions 4 and 5) should be excluded.

WHEREFORE, for the reasons set forth herein, and those in PNW's accompanying Memorandum in support of this motion, PNW respectfully requests that the Court grant this motion and strike certain opinions of Mr. Hartzer.

Date: March 29, 2019

Respectfully submitted,

By: /s/ Steven L. Baron

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**CERTIFICATE OF SERVICE**

The undersigned, an attorney, hereby certifies that a true and correct copy of the foregoing has been served on March 29, 2019 via the Court's CM/ECF system on all counsel of record who have consented to electronic service.

/s/ Steven L. Baron